The Pay Equity Hearings Tribunal

Annual Report 2013-2014

PEHT Annual Report 2013-2014

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Message from the Chair

I was appointed Interim Presiding Officer (hereinafter referred to as the "Chair") of the Pay Equity Hearings Tribunal on August 7, 2013 and reappointed in March 2014. Prior to this role, I served the Tribunal in the capacity as a Deputy Presiding Officer (hereinafter referred to as a "Vice-Chair") for many years. Accordingly, I am pleased to provide this Annual Report for the Tribunal.

When reviewing this report, it is noted that the number of new applications filed with the Tribunal is down slightly from 2012-13. However, the numbers alone do not necessarily reflect the magnitude of the demand on adjudicative resources. Statistics have been included in this Annual Report respecting numbers of hearing days scheduled or held and number of decisions issued to provide a better measure of that.

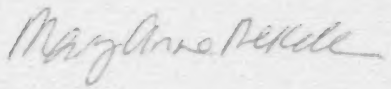
2013-2014 saw a number of changes at the Tribunal, most notably with respect to the individuals delivering its adjudicative services. Those changes relate both to how individuals are appointed, and to the identity of the appointees.

The Chair's position is now the only full-time salaried position paid out of the Tribunal. I am currently cross- appointed with the Ontario Labour Relations Board. Likewise, the Vice-Chairs continue to be paid a full-time salary, the cost of which is shared by the Tribunal and the Ontario Labour Relations Board, to which those individuals are cross-appointed. All of the previously existing full-time salaried Member appointments have now expired. Each member of the Tribunal is now a part-time appointee and is paid on a *per diem* basis.

I want to acknowledge the contribution of three individuals who left the Tribunal in 2013-14. Diane Gee left the Tribunal at the expiry of her five-year appointment as Chair on July 31, 2013. Her hard work and dedication during her tenure is greatly appreciated and she will be missed by those of us who remain. Two long-serving members, Diane Stewart-Rose (11 years) and Catherine Bickley (13 years) also left at the end of their terms. They were both fine and principled colleagues and a pleasure to work with over the years.

Shannon McManus joined the Tribunal in 2013-2014 as a part-time Member (Employee). Shannon also holds a part-time OLRB appointment, and has been a Member (Union) there for a number of years. Her experience in labour relations matters and in tri-partite adjudication is a great asset to the Tribunal.

It has been a satisfying year for the Tribunal. At this time I would like to thank the Registrar and staff who support the Tribunal and look forward to another year.



Mary Anne McKellar

A/Chair Pay Equity Hearings Tribunal

Mandate

The Pay Equity Commission (the "Commission") was established by section 27 of the *Pay Equity Act, 1987*, c.34 and is continued by subsection 27(1) of the *Pay Equity Act*, R.S.O. 1990, c.P.7 as amended (the "*PEA*"). The Commission consists of two separate, independent parts: the Pay Equity Hearings Tribunal (the "Tribunal") and the Pay Equity Office. The Tribunal is an adjudicative agency of the Government of Ontario responsible for adjudicating disputes that arise under the *PEA*. Pursuant to section 28(1) of the *PEA*, the Tribunal is a tripartite board, composed of the Chair (Presiding Officer), a number of Vice-Chairs (Deputy Presiding Officers), and Members, equal in number, representative of employers and employees.

The Tribunal deals exclusively with issues arising under the *Pay Equity Act*. The Tribunal has exclusive jurisdiction to determine all questions of fact or law that arise in any matter before it. The decision of the Tribunal is final and conclusive for all purposes. Decisions of the Tribunal cannot be appealed but may be judicially reviewed.

Mission Statement

The purpose of the *Pay Equity Act* is to redress systemic gender discrimination in compensation for work performed by employees in female job classes. Its implementation contributes to a fairer and more productive workplace. The goals of the *Pay Equity Act* can best be achieved through the co-operation of employers, bargaining agents and employees. The Tribunal is committed to encouraging settlement between the parties. The Tribunal is also committed to a hearing process that balances the need to be fair, accessible, economical and efficient.

Organizational Structure

The Ontario Labour Relations Board (the "OLRB") provides administrative and institutional support to the Tribunal. The Tribunal benefits from the sophisticated administrative and legal support, as well as information technology, at the OLRB, and the potential to take advantage of the expertise of its mediators. While the Tribunal has its own complement of Vice-Chairs and Members, the Tribunal Chair, all of the Vice-Chairs and two of the current Members are cross-appointed to other tribunals ensuring that the Tribunal is staffed with experienced decision-makers at a cost that is shared with other tribunals.

The Tribunal also participates in a broader, shared-services arrangement with the OLRB and the Workplace Safety and Insurance Appeals Tribunal. These adjudicative agencies share: printing and production, and common library services.

Names of Appointees and Terms of Appointments

NAME	CROSS-APPOINTED	POSITION	FIRST APPOINTED	TERM EXPIRES
McKellar, Mary Anne	OLRB[+] & HRTO[*]	Interim Presiding Officer	August 7, 2013	October 8, 2014
Kelly, Patrick	OLRB & PSCRB[#]	Deputy Presiding Officer	May 17, 2008	May 16, 2018
Rowan, Caroline	OLRB & HRTO	Deputy Presiding Officer	June 2, 2010	June 1, 2014
Burke, Ann		Part-Time Member (Employer)	April 4, 2012	April 3, 2017
Harris, Irene		Part-Time Member (Employee)	December 21, 2012	December 20, 2014
Zabek, Carla		Part-Time Member (Employer)	April 4, 2012	April 3, 2017
Phillips, Carol	OLRB	Part-Time Member (Employee)	August 15, 2012	August 14, 2014
McManus, Shannon R.B.	OLRB	Part-Time Member (Employee)	September 11, 2013	September 10, 2015

[+] Ontario Labour Relations Board
[*] Human Rights Tribunal of Ontario
[#] Public Sector Compensation Restraint Board

Operational Performance

Upon receipt of an application, the Tribunal sends out to the parties a Confirmation of Filing confirming that the application has been filed, providing the Tribunal file number and advising the parties of the date by which a response must be filed. A confirmation of filing was sent out by the Tribunal in all applications filed in 2013-14.

The total caseload for 2013-2014 fiscal year amounted to 31 cases, which was a combination of pending cases carried over from the previous year plus 11 new applications. The active caseload is the lowest it has been during the last seven years.

During the 2013-14 fiscal year, the Tribunal disposed of 14 applications, an increase from the previous year. Five applications were granted; two were dismissed; four terminated and three settled. Eighteen remained pending on March 31, 2014. The disposal rate was 45%, an increase from the previous year of 31%.

The Tribunal has made a practice in its Annual Report of providing caseload data of the kind set out in the three preceding paragraphs and in the Caseload Statistics table. These numbers alone do not always provide a meaningful picture of the demand that those cases place on adjudicative resources, principally because that demand varies significantly from one application to another. A more nuanced understanding emerges from statistics relating to number of hearing or pre-hearing conferences dates scheduled (89) and held (50) and numbers of written decisions issued (48) in respect of the active files (31). Even then, of

course, there is considerable variation in the complexity of the decisions and the amount of time required to generate the reasons.

With respect to the adjudication of disputes, the Tribunal continues to encourage the parties to resolve their disputes without the need for adjudication. Almost every case that involves more than a single party is scheduled by the Tribunal for a Pre-Hearing Conference with the Tribunal Chair or a Vice-Chair where one of the objectives is to explore with the parties opportunities to settle all or a part of the dispute.

In order to increase its efficiency and reduce the parties' costs, the Tribunal continues its efforts to reduce the number of days it takes to adjudicate a matter. The Tribunal is increasingly encouraging and directing the parties to identify any preliminary issues to be raised well in advance of the hearing with a view to determining these matters on the basis of written submissions. Further, the Tribunal is increasingly using Pre-Hearing Conferences and/or case management meetings to organize and streamline the issues in dispute so that a matter can be adjudicated as efficiently as possible. In addition, parties are increasingly being asked to exchange detailed submissions and documents well in advance of a hearing in order to make better use of available hearing time. It has been the Tribunal's experience that requiring the exchange of detailed submissions and documents in advance of the hearing not only serves to reduce hearing time but also facilitates the parties' ability to resolve some or all of the dispute.

The Tribunal has also begun to address the issue of the parties frequently agreeing to extend the time limits for the filing of submissions and/or adjourn set hearing dates. When this occurs, applications remain outstanding for unacceptable periods of time. The Tribunal is attempting to discourage adjournments except where compelling circumstances arise.

Caseload Statistics

Caseload				Disposed of					
Fiscal Year	Total	Pending April 1	Received Fiscal Year	Total Disposed of	Granted	Dismissed	Terminated	Settled	Pending March 31
2013-14	31	20	11	14	5	2	4	3	18
2012-13	35	21	14	11	0	4	4	3	23
2011-12	39	21	18	21	3	4	3	11	21
2010-11	35	13	22	16	4	3	5	4	21
2009-10	50	28	22	37	8	4	1	24	13
2008-09	48	25	23	20	0	4	0	16	28
2007-08	34	12	22	9	2	1	0	6	25
2006-07	25	10	15	13	3	4	0	6	12
2005-06	16	5	11	6	3	2	0	1	10
2004-05	5	0	5	0	0	0	0	0	5

*Pending numbers may vary slightly due to inadequate system reporting.

Definition of Terms:

1) Granted means that the application was, in whole or in large part, successful.
2) Dismissed means that the application was, in whole or in large part, not successful.
3) Terminated means that the application was not granted, dismissed or settled but was terminated at the parties' request or for administrative reasons such as the file remaining dormant.
4) Settled includes all cases where the parties, either with or without the assistance of the Tribunal, settled the dispute, as well as cases that were adjourned.

Financial Performance

In accordance with the Ministry of Labour's Delegation of Financial Authority Framework, financial authority is delegated to the Presiding Officer (Chair) of the Tribunal. The Chair is required to ensure that public funds are used with integrity and honesty. The Tribunal's operating budget is included in the Ministry of Labour's estimates and allocations process, and the Tribunal is required to report to the Ministry each quarter with respect to its expenditures and planned future financial commitments.

Each year, the Tribunal verifies through a Certificate of Assurance, that all of its transactions are reflected accurately and completely in the Public Accounts of Ontario, which are the annual financial statements.

All Figures in $000.0 thousand

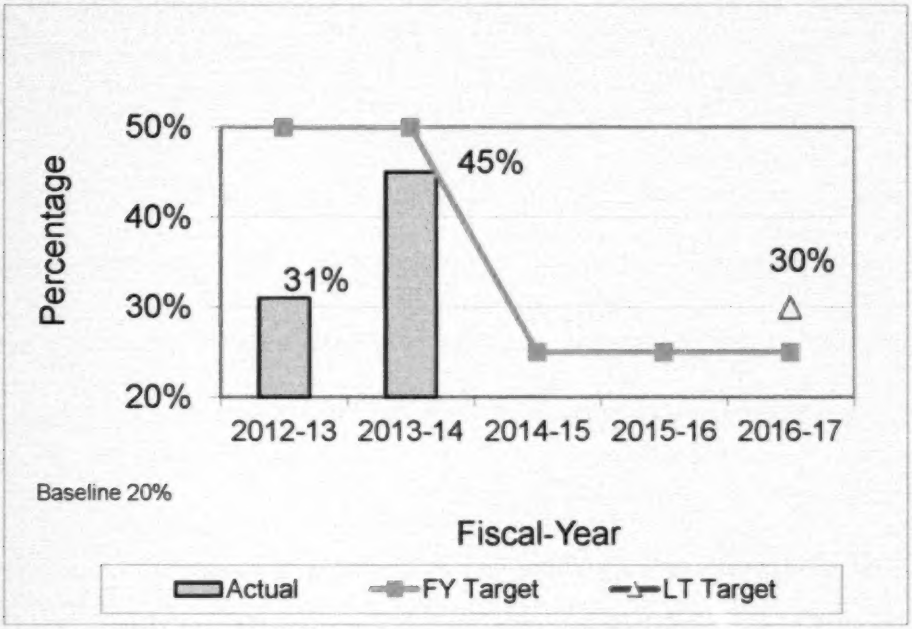
Account	Final Allocation*	Year-end Actual Expenditures**	Variance	% Variance
Salaries & Wages	199.2	190.2	9.0	*4.5%*
Benefits	53.7	14.6	39.1	*72.8%*
ODOE:				
Transportation & Communication	20.8	7.0	13.8	*66.6%*
Services (incl. Lease)	82.8	76.6	6.2	*7.5%*
Supplies & Equipment	5.1	1.5	3.6	*71.0%*
Total ODOE	**108.7**	**85.0**	**23.7**	***21.8%***
GRAND TOTAL	**361.6**	**289.8**	**71.8**	***19.8%***

* Final Allocation = Printed Estimates+/- TBO, re-alignment of funds by standard account.

** Year-end Actual Expenditures including office lease cost

Performance Measures

The Tribunal's case load each year is made up of two parts: the cases carried over into the year from the previous year and the cases filed during the current year. The graph measures how much of the Tribunal's total case load is disposed of during the year.



2013-2014 Commitments

- 25% of cases disposed of during the year.
- Actual disposal rate 45%

Long-term Target

- 30% of cases disposed of during the year.

Note: the lower settlement rate and time to conclude cases recognizes the complex nature of pay equity disputes which results in few negotiated settlements. As a result, almost all cases are decided only after lengthy hearings. In general, the same counsel represent the parties in pay equity cases and the scheduling of hearings is further extended by the availability of counsel as well as presiding officers who are cross-appointed to other Tribunals.

For More Information

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Toll-Free: 1-877-339-3335

Hearing Impaired (TTY): 416-212-7036

Fax: 416-326-7531

Hours of Operation: 8:30am – 5:00pm

Website: http://www.peht.gov.on.ca

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